

Guidance Notes for Applicants for Aquaculture Leases in Scotland

Introduction

As owner of all Scottish seabed, up to 12 nm, and 50% of the Scottish foreshore, permission is required from Crown Estate Scotland ('CES') by those wishing to carry out aquaculture activity (finfish/shellfish farming and seaweed production) on Crown land.

CES is not a regulator of the aquaculture industry. Where foreshore/seabed is in Crown ownership, the right to occupy a site will only be by means of a seabed lease from CES, granted by the CES Aquaculture team.

Leases

Whether or not CES will grant a Lease is solely at the discretion of the CES Aquaculture team, but the following information will give an indication on how they will approach the consideration of applications:

- An application for an aquaculture lease can be made at any time and no fee is required to make an application to Crown Estate Scotland.
- To apply, a completed [lease application form](#) (which can be downloaded and completed electronically or in hardcopy form) with plans, a copy of the relevant statutory consents [see Appendix A] and any other information required must be submitted to Crown Estate Scotland in Edinburgh (6 Bell's Brae, Edinburgh EH4 3BJ, or email emma.riach@crownestatescotland.com).
- Where the applicable statutory consents have yet to be secured, a Lease Option Agreement may be applied for (see below), but all other information pertaining to a Lease application must also be submitted for a Lease Option Agreement.
- Any application for a Lease or Lease Option will be considered by Crown Estate Scotland only upon receipt of a completed application form and the accompanying documents as set out in this guidance note.
- We will process applications without unreasonable delay but please note that it will greatly assist Crown Estate Scotland in processing applications if, when you submit, your application it is complete and accompanied by all relevant information and that applicants respond promptly to any request for further information or explanation.
- Crown Estate Scotland reserves the right to decline any application for Leases at its sole discretion.
- Only a written decision from Crown Estate Scotland will constitute a decision.

Lease Option Agreements ('LOA')

Crown Estate Scotland cannot issue a lease for an aquaculture development without the necessary statutory consents being in place [see Appendix A] and compliance with the qualifying criteria (see 'Leasing Criteria' below).

However, an application for a LOA can be submitted to us, which provides a short-term secure and exclusive interest in an area of seabed while consent applications are being prepared and submitted

A standard LOA is free of charge for the first 3 years of the agreement, however there is an option to extend this to a 5-year agreement subject to a charge of £1000.00, and provision of supporting evidence of development prospects

To apply for a LOA, complete and submit a [‘New Application Form’](#), with as much detail as possible about the proposed development. The key information we require is a full set of co-ordinates for your proposed site, so we can run a conflict check of the area for you (if this has not already been done). Along with your application form, we will also require a business plan and evidence of necessary financial and business resource that support this plan. It is recommended that you discuss proposals for new developments with Crown Estate Scotland’s aquaculture team prior to submitting any application to ensure all relevant matters have been considered.

An electronic submission of these documents should be sent to emma.riach@crownestatescotland.com

Any hardcopies copies* should be sent to: Emma Riach

Aquaculture Lease Co-Ordinator
Crown Estate Scotland
Quartermile Two
2nd Floor
2 Lister Square
Edinburgh
EH3 9GL

A LOA will remain in place for a period of 3 years (5 if extended) but will lapse if an application for planning permission has not been registered within the period specified in the agreement. Once planning permission has been secured the LOA may be exercised for a full lease, and this must also be done within the specified time period in the agreement.

A ‘cap’ of up to 5 LOAs may be applied for/held by any single applicant where planning applications have yet to be submitted for any of the development locations concerned. To avoid land-banking, where a Lease Option Agreement has lapsed or has had to be terminated for any reason, a new agreement for that location cannot be applied for by the same applicant for a period of 2 years unless Crown Estate Scotland are content that extenuating circumstances apply sufficiently for this restriction to be waived.

If you require more information about Lease Option Agreements, please do not hesitate to contact the Aquaculture team and we will be happy to help with your query.

[* Please note that either an electronic or postal copy of your application is sufficient. We do not require both versions.]

Leasing Criteria

The following criteria will apply in the assessment of applications for leases or lease option agreements and Crown Estate Scotland’s decision on whether to grant a lease:

Primary consideration will be given to:

1. Does the applicant intend to occupy and operate the site themselves?

2. Has the applicant obtained any of the required statutory consents [see Appendix A]?

3. Does the applicant have access to the resources required to fulfil the terms and conditions of the lease? Evidence will be required in the form of a business / production plan for, or including, the site in question, to indicate:

Financing of the operation

Production and harvest plans

Decommissioning in the event of cessation

Where appropriate, consideration will also be given to:

4. (a) Can the applicant's business / production plan demonstrate that they can and will comply with any farm management and / or area management agreement(s) that currently include the location of the site in question?

(b) Does the applicant's proposal indicate that they are currently or intend to become a signatory to any applicable industry code of good practice?

5. Can the applicant's business / production plan demonstrate how acquiring the lease to enable operation of the site in question might provide community and / or stakeholder and / or environmental management benefits, through the activities associated with the site in its own right and / or through the inclusion of the site with other aquaculture sites operated by the applicant (a) locally (b) in other areas

6. Can the applicant demonstrate any current certification to any recognized environmental, quality or business management standards that will contribute to the economic and / or environmental sustainability of the site's operation?

7. Does the applicant's proposal demonstrate how acquiring the lease to enable operation of the site in question will contribute significantly to the economic and / or environmental sustainability of the applicant's wider aquaculture business?

8. In the event of an applicant being a current holder of other aquaculture leases from Crown Estate Scotland, a record of full compliance with the terms and conditions of those leases.

- If it transpires during process of an application that any information supplied by the applicant is false or misleading or that material information has been withheld Crown Estate Scotland may reject the application.
- The applicant should note that neither the receipt nor any acknowledgement of an application or any enquiries by Crown Estate Scotland in the course of processing an application constitutes any warranty or undertaking that a lease will be granted nor does the grant of any lease imply any representation by or on behalf of Crown Estate Scotland that the area is suitable for aquaculture activity or that planning permission will be granted.
- Crown Estate Scotland may ask applicants to submit further or supplementary information in the course of considering any application.

Removal / decommissioning of deployed equipment

It is a condition of any lease granted by CES for aquaculture purposes that all deployed equipment, including moorings and any ancillary equipment, is removed from the leased area(s) when the lease is terminated, by either party. CES will reserve the right to request a survey of the leased area, at the tenant's expense, to confirm complete removal where this is considered necessary. In the event that certain ancillary equipment cannot be removed / decommissioned – for example a slipway or pier – the tenant will be required to retain liability under a separate agreement with Crown Estate Scotland's Coastal team.

Appendix A – Statutory Consents and where to get them

Finfish Sites	Shellfish Sites	Seaweed Sites
Planning Permission	Planning Permission	Marine Licence
Marine Licence	Marine Licence	
CAR Licence		

On 7th March 2007, an order was approved by Scottish Parliament that gave planning authorities statutory planning powers for aquaculture developments in the marine waters around Scotland. Since 1st April 2007, all marine sites require planning permission. An application for this is made to the relevant local authority under planning legislation.

In addition to planning permission, all finfish and shellfish sites require a Marine Licence issued by Marine Scotland's licensing operations team (or confirmation of exemption).

Finfish farming operations also require a CAR licence from the Scottish Environmental Protection Agency (SEPA).